

NO. : 7:07-CV-166-H

Defendant.

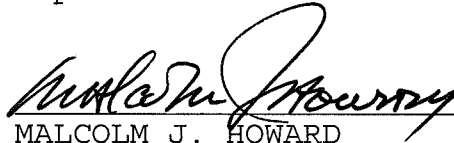
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doffing activities." (Mem. & Recommendation at 8.) In so stating, Judge Gates did not place the burden of proof upon defendant. Rather, Judge Gates found that plaintiffs had met their burden of demonstrating that they are similarly situated because each of them (1) is an hourly employee; (2) working at the same production facility; (3) on the production line; (4) is paid according to a gang-time system; (5) is required to wear protective equipment; and (6) is subject to a uniform policy or practice of being paid either three or ten minutes per day for donning and doffing activities. (Mem. & Recommendation at 7.) The statement upon which defendant relies is simply a rejection of defendant's argument that the similarities among the plaintiffs are outweighed by the differences in the way gang time was computed for different job positions and departments.

A full and careful review of the M&R and other documents of record convinces the court that the recommendation of the magistrate judge is, in all respects, in accordance with the law and should be approved. Judge Gates correctly determined that the factual and employment settings of the individual plaintiffs are sufficiently similar to warrant class certification, that defendant has raised defenses that pertain to large groups of the class (if not to the class in its entirety), and that procedural and fairness considerations weigh in favor of class certification. Accordingly, the court ADOPTS the recommendation

of the magistrate judge as its own. For the reasons stated in the M&R, defendant's motion to decertify the class [DE #363] is DENIED.

This 24TH day of September 2010.

A handwritten signature in black ink, appearing to read "Malcolm J. Howard", is written over a horizontal line.

MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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